

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TRUSTEES of the NORTHERN NEVADA
OPERATING ENGINEERS HEALTH &
WELFARE TRUST FUND, et al.,

Plaintiffs,

v.

MACH 4 CONSTRUCTION, et al.,

Defendants.

3:08-CV-0578-LRH-WGC
3:09-CV-0565-LRH-WGC

ORDER

Before the court is plaintiffs' motion to strike jury demand. Doc. #112.¹

I. Facts and Background

On October 30, 2008, plaintiffs filed the present action against defendant Mach 4 Construction ("Mach 4") for breach of contract arising from alleged unpaid union and trustee contributions. Doc. #1.² Thereafter, plaintiffs filed the present motion to strike Mach 4's jury demand. Doc. #112.

///

///

¹ Refers to the court's docket number.

² For a complete history of this action see this court's order denying plaintiffs' motion for summary judgment. Doc. #59.

1 **II. Discussion**

2 In their motion, plaintiffs argue that a jury trial on their claims for contribution is
3 unnecessary because their claims sound in equity. *See* Doc. #112. Although plaintiffs are correct
4 that Mach 4 has no specific right to a jury trial on plaintiffs' claims for contribution, the court may
5 utilize a jury to provide advisory findings of fact. *See Everest Capital Ltd. v. Everest Funds Mgmt.*
6 *LLC*, 393 F.3d 755, 762 (8th Cir. 2005). Here, because a jury will already be present in this
7 consolidated trial to address various claims arising in member case no. 3:09-cv-0565, the court
8 finds that utilizing that jury to provide advisory findings of fact on plaintiffs' claims would be
9 useful to assist the court in determining any disputed issues of material fact. Therefore, the court
10 shall deny plaintiffs' motion to strike Mach 4's jury demand.

11
12 IT IS THEREFORE ORDERED that plaintiffs' motion to strike jury demand (Doc. #112) is
13 DENIED.

14 IT IS SO ORDERED.

15 DATED this 17th day of November, 2011.



16
17
18 LARRY R. HICKS
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26